

# **EXHIBIT H**

Jones, T. Mark - Vol. IV

December 9, 2008

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1 UNITED STATES DISTRICT COURT  
 2 FOR THE DISTRICT OF MASSACHUSETTS  
 3 - - - - -X  
 4 IN RE: PHARMACEUTICAL : MDL NO. 1456  
 5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION  
 6 PRICE LITIGATION : 01-CV-12257-PBS  
 7 - - - - -X

8 THIS DOCUMENT RELATES TO: :  
 9 U.S. ex rel. Ven-a-Care of : Hon. Patti B. Saris  
 10 the Florida Keys, Inc. :  
 11 v. :  
 12 Dey, Inc., et al. :  
 13 No. 05-11084-PBS :  
 14 - - - - -X

15  
 16 (CROSS NOTICED CAPTIONS ON FOLLOWING PAGES)  
 17

18 CONTINUED DEPOSITION OF T. MARK JONES  
 19 Washington, D.C.  
 20 Tuesday, December 9, 2008  
 21 VOLUME IV  
 22

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1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - - - -x

4 IN RE: PHARMACEUTICAL : MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION

6 PRICE LITIGATION : 01-CV-12257-PBS

7 - - - - -x

8 THIS DOCUMENT RELATES TO: : Judge Patti B. Saris

9 United States of America ex :

10 rel. Ven-A-Care of the :

11 Florida Keys, Inc., et al. :

12 v. Boehringer Ingelheim :

13 Corporation, et al., Civil :

14 Action No. 07-10248-PBS :

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1 IN THE COURT OF COMMON PLEAS

2 FIFTH JUDICIAL CIRCUIT

3 - - - - -x

4 STATE OF SOUTH CAROLINA :Master Caption No.

5 COUNTY OF RICHLAND :06-CP-40-4394

6 In Re: South Carolina Pharmaceutical:

7 Pricing Litigation :

8 This Matter Relates to: Sandoz, Inc.:

9 Civil Action No. 07-CP-40-0285 :

10 Civil Action No. 07-CP-40-0287 :

11 - - - - -x

12 IN THE COURT OF COMMON PLEAS

13 FIFTH JUDICIAL CIRCUIT

14 - - - - -x

15 STATE OF SOUTH CAROLINA :Master Caption No.

16 COUNTY OF RICHLAND :06-CP-40-4394

17 In Re: South Carolina Pharmaceutical:

18 Pricing Litigation :

19 This Document Relates to: :

20 Civil Action No. 07-CP-40-0280 :

21 Civil Action No. 07-CP-40-0286 :

22 - - - - -x

1 IN THE COURT OF COMMON PLEAS

2 FIFTH JUDICIAL CIRCUIT

3 - - - - -x

4 STATE OF SOUTH CAROLINA :Master Caption No.

5 COUNTY OF RICHLAND :06-CP-40-4394

6 In Re: South Carolina Pharmaceutical:

7 Pricing Litigation :

8 This Document Relates to: :

9 PAR PHARMACEUTICALS COMPANIES, INC. :

10 Civil Action No. 06-CP-40-7151 :

11 Civil Action No. 06-CP-40-7153 :

12 - - - - -x

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21 (CROSS NOTICED CAPTIONS ON FOLLOWING PAGES)

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IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

- - - - -X

STATE OF SOUTH CAROLINA :MASTER FILE NO.

COUNTY OF RICHLAND :06-CP-40-4394

STATE OF SOUTH CAROLINA and HENRY D. :CIVIL ACTION NO.

McMASTER, in his official capacity as:07-CP-40-0282

Attorney General for the State of :07-CP-40=0283

South Carolina,

Plaintiff,

vs.

MYLAN LABORATORIES, INC.,

Defendant.

-----X

(CROSS NOTICED CAPTIONS ON FOLLOWING PAGES)

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1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 THIRD JUDICIAL DISTRICT OF ANCHORAGE

3 - - - - -x

4 STATE OF ALASKA, :

5 Plaintiff, :Case No. 3AN-06-12026CI

6 vs. :

7 ALPHARMA BRANDED PRODUCTS :

8 DIVISION, INC., et al., :

9 Defendants. :

10 - - - - -x

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13 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

14 STATE OF HAWAII

15 - - - - -x

16 STATE OF HAWAII, :

17 Plaintiff, :Civil No. 06-1-0720-04EEH

18 : (Complex Litigation)

19 vs. :Civil No. 07-1-1639-09EEH

20 ABBOTT LABORATORIES, INC., : (Other Civil Action)

21 et al., :

22 - - - - -x

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1 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

2 COUNTY DEPARTMENT, CHANCERY DIVISION

3 - - - - - x

4 THE PEOPLE OF THE STATE OF :

5 ILLINOIS, :

6 Plaintiff, :

7 vs. : Case No. 05CH02474

8 ABBOTT LABORATORIES, et al., :

9 Defendants. :

10 - - - - - x

11 UNITED STATES DISTRICT COURT

12 FOR THE DISTRICT OF MASSACHUSETTS

13 - - - - - -x

14 IN RE: PHARMACEUTICAL : MDL NO. 1456

15 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION

16 PRICE LITIGATION : 01-CV-12257-PBS

17 THIS DOCUMENT RELATES TO: : Hon. Patti B. Saris

18 State of South Carolina v. : Magistrate Judge

19 Abbott Laboratories, Inc. : Marianne B. Bowler

20 Civil Action :

21 No.06-cv-11883-PBS :

22 - - - - - -x

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1 STATE OF NEW YORK

2 SUPREME COURT COUNTY OF ERIE

3 -----) Index No. 2005-2439

4 THE COUNTY OF ERIE, ) Judge John M. Curran

5 Plaintiff, )

6 v. )

7 ABBOTT LABORATORIES, INC., et al., )

8 Defendants. )

9 -----)

10

11 STATE OF NEW YORK

12 SUPREME COURT COUNTY OF SCHENECTADY

13 -----) Index No. 2006-886

14 THE COUNTY OF SCHENECTADY, ) Judge

15 Plaintiff, ) Vincent J. Reilly, Jr.

16 v. )

17 ABBOTT LABORATORIES, INC., et al., )

18 Defendants. )

19 -----)

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22 (CROSS NOTICED CAPTIONS ON FOLLOWING PAGES)

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1 STATE OF NEW YORK

2 SUPREME COURT COUNTY OF OSWEGO

3 -----) Index No. 2006-0697

4 THE COUNTY OF OSWEGO, ) Judge

5 Plaintiff, ) James W. McCarthy

6 v. )

7 ABBOTT LABORATORIES, INC., et al., )

8 Defendants. )

9 -----)

10

11

12 UNITED STATES DISTRICT COURT

13 FOR THE DISTRICT OF MASSACHUSETTS

14 - - - - -x

15 IN RE: PHARMACEUTICAL : MDL NO. 1456

16 INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION

17 PRICE LITIGATION : 01-CV-12257-PBS

18 THIS DOCUMENT RELATES TO: : Hon. Patti B. Saris

19 The City of New York, et al. :

20 v. :

21 Abbott Laboratories, et al. :

22 - - - - -x

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1 IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS

2 STATE OF MISSOURI

3 -----x

4 STATE OF MISSOURI, ex rel, :

5 JEREMIAH W. (JAY) NIXON, :

6 ATTORNEY GENERAL, and :

7 MISSOURI DEPARTMENT OF SOCIAL:

8 SERVICES, DIVISION OF MEDICAL:

9 SERVICES, :

10 Plaintiffs, :Case No. 054-2486

11 MYLAN LABORATORIES, INC., et :

12 al, I:

13 Defendants. :

14 -----x

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21 (CROSS NOTICED CAPTIONS ON FOLLOWING PAGES)  
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1 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
2 OF THE STATE OF IDAHO  
3 IN AND FOR THE COUNTY OF ADA  
4 -----X  
5 STATE OF IDAHO, :  
6 Plaintiff, :  
7 vs. : Case No. CV 0C 0701847  
8 ALPHARMA USPD, INC., et al., :  
9 Defendants. :  
10 -----X

11  
12 Continued Videotaped Deposition of T. MARK  
13 JONES, a witness herein, called for examination by  
14 counsel for Dey, Inc., and counsel for Roxane  
15 Laboratories, in the above-entitled matter, pursuant  
16 to notice, the witness being duly sworn by SUSAN L.  
17 CIMINELLI, a Notary Public in and for the District of  
18 Columbia, taken at the offices of Kelley Drye &  
19 Warren LLP, Washington Harbour, Suite 400, 3050 K  
20 Street, N.W., at 9:05 a.m., and the proceedings being  
21 taken down by Stenotype by SUSAN L. CIMINELLI, CRR,  
22 RPR, and transcribed under her direction.

1 A P P E A R A N C E S :

2

3 On behalf of Ven-A-Care and the Witness:

4 JIM BREEN, ESQ.

5 The Breen Law Firm

6 3350 SW 148 Avenue, Suite 110

7 Miramar, FL 33027

8 (954) 874-1635

9

10 On behalf of the United States:

11 RENEE BROOKER, ESQ.

12 U.S. Dept. of Justice - Civil Division

13 601 D Street, N.W.

14 Washington, D.C. 20012

15 (202) 616-3797

16

17 On behalf of Dey, Inc. and Mylan:

18 CLIFFORD KATZ, ESQ.

19 Kelley Drye & Warren LLP

20 101 Park Avenue

21 New York, NY 10178

22 (212) 808-7697

1                   A P P E A R A N C E S :     (CONTINUED)

2     On behalf of Roxane & Boehringer Ingelheim:

3                   ERIC GORTNER, ESQ.

4                   Kirkland & Ellis LLP

5                   200 East Randolph Drive

6                   Chicago, IL 60601

7                   (312) 861-2285

8

9     On behalf of Schering, Schering Plough, Warrick  
10    and Braun Medical:

11                  JOHN P. McDONALD, ESQ.

12                  Locke Lord Bissell & Liddell LLP

13                  2200 Ross Avenue, Suite 2200

14                  Dallas, TX 75201

15                  (214) 740-8758

16

17    On behalf of GlaxoSmithKline:

18                  MARK H. LYNCH, ESQ.

19                  Covington & Burling LLP

20                  1201 Pennsylvania Avenue, N.W.

21                  Washington, D.C. 20004-2401

22                  (202) 662-5544

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1 A P P E A R A N C E S : (CONTINUED)

2

3 On behalf of Johnson & Johnson: (Via telephone)

4 MARK G. YOUNG, ESQ.

5 Patterson Belknap Webb & Tyler LLP

6 1133 Avenue of the Americas

7 New York, NY 10036

8 (212) 336-291

9

10

11 ALSO PRESENT:

12

13 Peggy Forrest, Paralegal

14 Dan Solomon, Videographer

15

16

17

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## 1 C O N T E N T S

2

3 WITNESS: T. MARK JONES PAGE

4 Examination By Mr. Katz.....1076

5 Examination By Mr. Gortner.....1122

6

7

## 8 D E Y E X H I B I T S

9 NUMBER DESCRIPTION PAGE

10 Exhibit Dey 334 - U.S. v. Dey Second Amended

11 Complaint.....1088

12 Exhibit Dey 335 - U.S. v. Dey Complaint.....1088

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## 15 R O X A N E E X H I B I T S

16 NUMBER DESCRIPTION PAGE

17 Exhibit Roxane 194 - 7/14/08 Letter to Simon...1123

18 Exhibit Roxane 195 - Response of Plaintiff

19 Ven-A-Care of the Florida

20 Keys, Inc., to Roxane's

21 first set of

22 interrogatories.....1134

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1	R O X A N E	E X H I B I T S	(CONTINUED)
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3	Exhibit Roxane 196 - McKesson Invoice		
4		VAC MDL 59582-590.....	1145
5	Exhibit Roxane 197 - VAC MDL 58967-990.....		1161
6	Exhibit Roxane 198 - McKesson Econolink		
7		Furosemide.....	1174
8	Exhibit Roxane 199 - McKesson Econolink		
9		Methadone.....	1187
10	Exhibit Roxane 200 - Bellco Invoice R2-002422..		1191
11	Exhibit Roxane 201 - ANDA, Inc. Invoice		
12		VAC MDL27960.....	1200
13	Exhibit Roxane 202 - Index to evidence box of		
14		the original Boston	
15		Complaint filed 4/10/00...	1263
16	Exhibit Roxane 203 - Civil Action 00 CV10698		
17		Disclosures.....	1263
18	Exhibit Roxane 204 - 2/11/05 Ven-A-Care		
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20	Exhibit Roxane 205 - Democratic Staff Ways and		
21		Means 11/24	
22		VAC MDL 64277-279.....	1279

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1	R O X A N E	E X H I B I T S	(CONTINUED)
2	NUMBER	DESCRIPTION	PAGE
3	Exhibit Roxane 206 -	Press Release 11/27/98	
4		VAC MDL74275-276.....	1286
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6		VAC MDL 84331-336.....	1292
7	Exhibit Roxane 208 -	VAC MDL 49399-50060.....	1334
8	Exhibit Roxane 209 -	Abbott Exhibit 571.....	1366

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1 P R O C E E D I N G S

2

3 THE VIDEOGRAPHER: The time is 9:05

4 a.m. December 9th, 2008. This begins tape

5 number one of Volume IV of the continued

6 videotaped deposition Mr. T. Mark Jones.

7 The court reporter please swear in the

8 witness.

9

10 Whereupon,

11 T. MARK JONES,

12 was called as a witness by counsel for Defendant

13 Dey and Roxane, and having been duly sworn by the

14 Notary Public, was examined and testified as

15 follows:

16

17 EXAMINATION BY COUNSEL FOR DEFENDANT DEY

18 BY MR. KATZ:

19 Q. Good morning, Mr. Jones.

20 A. Good morning.

21 MR. BREEN: Before proceeding, we left

22 a topic open regarding Illinois presentations,

1 that we had purchased for demonstrative reasons.

2 I'm having Miss Forrest look through  
3 and see if she can find any kind of EOBs that  
4 have Dey NDC numbers on them in the Medicaid  
5 program. So we're going to sort of look for that  
6 today, to see if we could verify whether we -- I  
7 know we purchased.

8 If we have them on an EOB, you know, an  
9 explanation of benefits from the program, then  
10 that means we purchased the drug.

11 Q. Okay. So it would be fair to say that  
12 you're not sure whether or not Ven-A-Care ever  
13 dispensed a Dey drug to a Medicare or a Medicaid  
14 patient?

15 A. Well, I don't want to say that we did  
16 or didn't without the information.

17 Q. Okay. I'm just going to show you a  
18 document and see if it refreshes your  
19 recollection at all. This is a document  
20 previously marked Dey Exhibit 216.

21 Now, you'll see that this is a claims  
22 submitted to Medicare for Albuterol Sulfate

1 inhalation, unit dose 0.083 percent, which is a  
2 drug manufactured by Dey, but it does not say  
3 whether or not Dey manufactured this particular  
4 generic drug.

5 Do you know whether or not this drug  
6 was manufactured by Dey that was the subject of  
7 this claim?

8 A. I can't say that I do, because there's  
9 no indication for it.

10 Q. Okay. Thank you.

11 Let's just quickly go over the  
12 purchases that you do know of made by Ven-A-Care  
13 in connection with litigation.

14 When was the first time Ven-A-Care made  
15 such a purchase?

16 A. I want to say I believe it was around  
17 the year 2000. We did some purchases through  
18 ANDA, which is a gen -- you know, a generic  
19 wholesale distributor, specialty distributor.

20 Q. Do you know which drugs were purchased?

21 A. I believe that it was Albuterol  
22 Ipratropium, I think, I want to say Cromolyn.